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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/894,050

06/28/2001

Leif Wilhelmsson

34650-00670USPT

5408

7590

10/06/2004

JENKENS & GILCHRIST

3200 Fountain Place

1445 Ross Avenue

Dallas, TX 75202-2799

EXAMINER

DEANE JR, WILLIAM J

ART UNIT

PAPER NUMBER

2642

DATE MAILED: 10/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b> 09/894,050	<b>Applicant(s)</b> WILHELMSSON ET AL.	
	<b>Examiner</b> William J Deane	<b>Art Unit</b> 2642	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 01/30/2002.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-39 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>4/24/03</u> | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 – 4, 6, 8, 10 – 15, 17 – 20, 22 – 29, 31 – 32, 34 – 35 and 37 – 39 are rejected under 35 U.S.C. 102(b) as being anticipated by WO 98/48586 (Posti).

Posti teaches a dynamic carrier selection method in which a carrier candidate list is created and changing from one carrier to another when the quality of the first carrier is not acceptable (see Abstract). In addition, note page 3, lines 9 – 32. Note ranking and re-ranking of candidate carriers (Page 6, line 21 – Page 7, line 13), quality measuring and threshold (Page 9, lines 4 – 10, Page 10, lines 14 – 17). Frequency – hopping (Page 10, 27 – 30 & Page 12, lines 14 - 35).

With respect to claim 8, 10, 20, 22, 24, 26, 35, 37 such is inherent with RSSI.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7, 16, 30, 33 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Posti in view of 6,519,460 (Haartsen).

Posti does not specifically recite the use of a high-speed communications. However, Haartsen teaches that such is old in the art (see Abstract). It would have been obvious to one of ordinary skill in the art to have incorporated such a high-speed communications means as taught by Haartsen into the Posti device as such would only entail the substitution of one communication means for another.

Claims 9, 21 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Posti in view of WO 93/26100 (Israelsson).

Posti does not specifically recite a C/I. However, Israelsson teaches the use of C/I (note claim 13 of Israelsson). It would have been obvious to one of ordinary skill in the art to have incorporated such C/I into the Posti device as such would only entail the addition of a well-know quality measuring means or substitution of one quality measuring means for another.

### ***Conclusion***

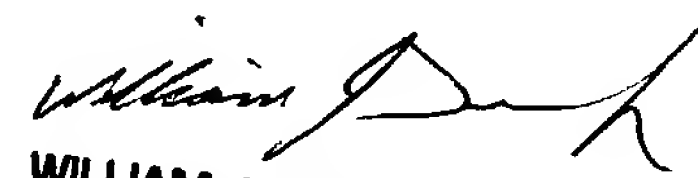
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

U.S. Patent Nos. 6,760,317 (Honkanen et al.), 6,687,239 (Koprivica), 6,449,462 (Gunnarsson et al.), 6,353,645 (Solve et al.), 6,351,643 (Haartsen), 6,188,715 (Partyka), 5,752,192 (Hamabe) – note Abstracts and Figs.

Art Unit: 2642

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bill Deane whose telephone number is (703) 306-5838. In addition, facsimile transmissions should be directed to Bill Deane at facsimile number (703) 872-9306.

26Sep04

  
WILLIAM J. DEANE, JR  
PRIMARY EXAMINER

<b>Notice of References Cited</b>	Application/Control No. 09/894,050	Applicant(s)/Patent Under Reexamination WILHELMSSON ET AL.	
	Examiner William J Deane	Art Unit 2642	Page 1 of 1

**U.S. PATENT DOCUMENTS**

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
	A	US-6,760,317	07-2004	Honkanen et al.	370/329
	B	US-6,687,239	02-2004	Koprivica, Milosh	370/341
	C	US-6,519,460	02-2003	Haartsen, Jacobus Cornelis	455/452.1
	D	US-6,449,462	09-2002	Gunnarsson et al.	455/67.13
	E	US-6353645	03-2002	Solve et al.	375/354
	F	US-6351643	02-2002	Haartsen	455/450
	G	US-6188715	02-2001	Partyka	375/134
	H	US-5752192	05-1998	Hamabe	455/450
	I	US-			
	J	US-			
	K	US-			
	L	US-			
	M	US-			

**FOREIGN PATENT DOCUMENTS**

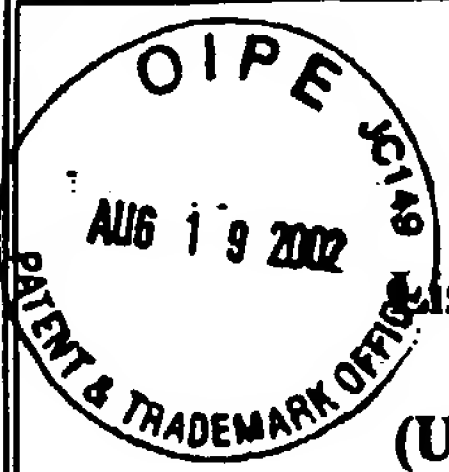
*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

**NON-PATENT DOCUMENTS**

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
	V	
	W	
	X	

\*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)  
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.

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 <b>Form PTO-1449 Modified</b> <b>List of Patents and Publications</b> <b>Cited by Applicant</b> <b>(Use several sheets if necessary)</b>  <b>U.S. Patent Department of Commerce</b> <b>Patent and Trademark Office</b>		<b>Docket No.:</b> 34650-00670USPT	<b>Serial No.:</b> 09/894,050			
		<b>Applicants:</b> Leif WILHELMSSON et al.				
		<b>Filing Date:</b> June 28, 2001	<b>Group:</b> 2661			
<b>U.S. PATENT DOCUMENTS</b>						
<b>Examiner Initial</b>	<b>Cite Code</b>	<b>Document No.</b>	<b>Date</b>	<b>Name</b>	<b>Class</b>	<b>Subclass</b>
ap	A1	5,548,836	Aug. 20, 1996	Taromaru	455	277.1
wp	A2	5,481,571	Jan. 2, 1996	Balachandran et al.	573	347
ap	A3	4,499,606	Feb. 12, 1985	Rambo	495	277
	A4			Technology Center 2600		
<b>FOREIGN PATENT DOCUMENTS</b>						
<b>Examiner Initial</b>	<b>Cite Code</b>	<b>Document No.</b>	<b>Date</b>	<b>Country</b>	<b>Translation</b>	
					<b>Yes</b>	<b>No</b>
	B1					
<b>OTHER DOCUMENTS</b>						
<b>Examiner Initial</b>	<b>Cite Code</b>	<b>Author, Title, Date, Pertinent Pages, Etc.</b>				
	C1					
	C2					
<b>EXAMINER:</b> Bill Deane				<b>DATE CONSIDERED</b> 26 Sep 04		



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List of Patents and Publications  
Cited by Applicant  
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U.S. Patent Department of Commerce  
Patent and Trademark Office

Docket No.:  
34650-00670USPT

Serial No.:  
09/894,050

Applicants:  
Leif WILHELMSSON et al.

Filing Date:  
June 28, 2001

Group:  
2661

U.S. PATENT DOCUMENTS

Examiner Initial	Cite Code	Document No.	Date	Name	Class	Subclass
	A1					

FOREIGN PATENT DOCUMENTS

Examiner Initial	Cite Code	Document No.	Date	Country	Translation	
					Yes	No
<i>ap</i>	B1	EP 0 490 509 A2	June 17, 1992	Europe		(English)
<i>ap</i>	B2	WO 93/26100	Dec. 23, 1993	PCT		(English)
<i>ap</i>	B3	EP 0 932 318 A2	July 28, 1999	Europe		(English)
	B4					

OTHER DOCUMENTS

Examiner Initial	Cite Code	Author, Title, Date, Pertinent Pages, Etc.
	C1	
	C2	

EXAMINER: *Bill Dean*

DATE CONSIDERED *2/26/04*

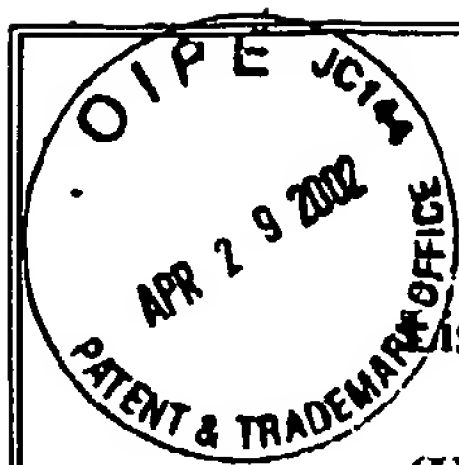
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Cited by Applicant  
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U.S. Patent Department of Commerce  
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Docket No.:  
34650-00670USPT

Serial No.:  
09/894,050

Applicants:  
Leif WILHELMSSON et al.

Filing Date:  
June 28, 2001

Group:  
2661

## U.S. PATENT DOCUMENTS

Examiner Initial	Cite Code	Document No.	Date	Name	Class	Subclass
wp	A1	5,203,026	April 13, 1993	Ekelund	455	134
wp	A2	5,418,839	May 23, 1995	Knuth et al.	379	61
wp	A3	5,475,864	December 12, 1995	Hamabe	455	33.1
wp	A4	6,035,201	March 7, 2000	Whitehead	455	455
wp	A5	6,108,321	August 22, 2000	Anderson et al.	370	329
	A6					

## FOREIGN PATENT DOCUMENTS

Examiner Initial	Cite Code	Document No.	Date	Country	Translation	
					Yes	No
wp	B1	WO 98/09466	March 5, 1998	PCT	(English)	
wp	B2	WO 98/48586	October 29, 1998	PCT	(English)	
wp	B3	WO 99/12373	March 11, 1999	PCT		x
	B4					



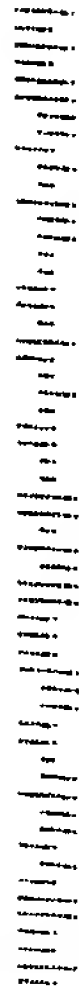
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OTHER DOCUMENTS

Examiner Initial	Cite Code	Author, Title, Date, Pertinent Pages, Etc.
<i>wp</i>	C1	U.S. Patent Application Number 09/385,024, filed on August 30, 1999.
<i> </i>	C2	U.S. Provisional Patent Application Number 60/180,095, filed on February 3, 2000.
<i> </i>	C3	U.S. Provisional Patent Application Number 60/212,774, filed on June 20, 2000.
<i> </i>	C4	U.S. Patent Application Number 09/894,052, filed on June 28, 2001.
<i> </i>	C5	U.S. Provisional Patent Application Number 60/226,965, filed on August 22, 2000.
<i> </i>	C6	U.S. Patent Application Number 09/706,071, filed on November 3, 2000.
<i> </i>	C7	U.S. Patent Application Number 09/710,204, filed on November 9, 2000.
<i> </i>	C8	U.S. Provisional Patent Application Number 60/249,706, filed on November 17, 2000.
<i> </i>	C9	Haartsen, Jaap. "Bluetooth- The Universal Radio Interface for ad hoc, Wireless Connectivity". Ericsson Review No. 3, 1998. Pages 1-8.
<i> </i>	C10	Haartsen, Jaap. "Bluetongue - The High-Speed Bluetooth Mode". BTONoverview.doc (2000). Pages 1-16.
<i> </i>	C11	Haartsen, Jaap. "The Bluetooth Radio System". IEEE Personal Communications February 2000. Volume 7, Number 1. Pages 28-36.
<i>U</i>	C12	
EXAMINER: <i>Bill Deane</i>		DATE CONSIDERED <i>26 Sep 04</i>

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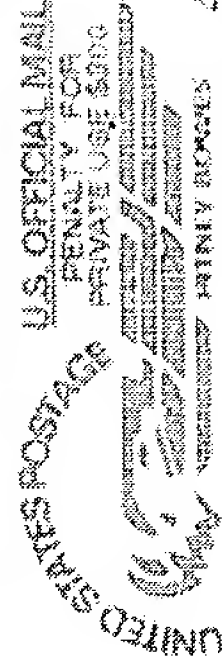
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